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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,736	03/01/2000	Jon C. Zaring	ODS-11	3221

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EXAMINER

WOO, RICHARD SUKYOON

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/516,736

Applicant(s)

ZARING ET AL.

Examiner

Richard Woo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1) Applicant's arguments filed March 26, 2003 have been fully considered but they are not persuasive.

-- In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Brenner et al. and LaDue are directed to a method and system for interactive gaming and wagering over the network system (either wireless or wireline). Although Brenner et al. does not expressly disclose the system over the wireless cellular system, it would have been obvious to one having ordinary skill in the communications art to replace the wireline communications system with the wireless cellular system, as taught by LaDue, for the purpose of providing the user with a portable, wireless two way data communications gaming or wagering system.

Additionally, in response to applicant's argument that "it would not even be technologically possible" to replace the wireline communications system with the wireless one, the examiner invites the applicant's attention to the proliferation of wireless technology in every part of our daily applications.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

2) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3) Claims 1-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (US 6,099,409) in view of LaDue (US 5,999,808).

Brenner et al. disclose a method for interactive wagering on races comprising:
allowing a user to access to access an interactive wagering service over network (124, 128) to obtain information on races (col. 2, lines 47-53);

displaying the information on the races on the terminal (including a menu listing);
displaying interactive options on the terminal that allows the user to place a wager on a given race using the communications network;

providing racing data to the terminal from a transaction processing and subscription management system (col. 4, lines 38-46 and see the pertinent Figs.);

displaying interactive options on the terminal to provide the user with an opportunity:

to initiate access to the service (col. 2, lines 34-39),

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to initiate creation of a wager (col. 2, lines 47-53),
to display race results (col. 3, lines 15-18),
to view handicapping information on the terminal (col. 25, lines 14-24),
to select the racetrack for the given race (col. 2, lines 47-53),
to select the given race from a plurality of races at a plurality of racetracks
(col. 2, lines 47-53),
to select a desired wager type for the wager (Id.),
to select a horse on which to wager for the given race (col. 1, lines 16-17),
to select a wager amount for the wager (col. 2, lines 47-53),
to create a new wager after the wager has been created (Id.),
to place the wager by sending the wager to a transaction processing and
subscription management system (col. 4, lines 38-46),
to delete a wager after the wager has been created (col. 15, lines 15-17),
to enter a personal ID number (col. 4, lines 46-51),
to request account balance information from a totalisator (col. 24, lines 46-
59),
to set a reminder for the given race and display the reminder (col. 3, lines
19-22);
to reminder the user of the given race by using automatic dialing
equipment to place a telephone call to the telephone and provide an audio
message (col. 1, lines 13-15), and
to provide video for the given race (Id.);

displaying current odds for the wager on the terminal in real time before the wager is placed (col. 6, lines 32-35);

using user television equipment or user computer to view race results (col. 1, lines 32-35; col. 4, lines 38-46);

wherein the transaction processing and subscription management system receives the racing data from a racing data collection and processing system, or a totalisator (col. 4, lines 38-46); and

adjusting an account of the user to reflect the outcome of the wager (Id.).

However, Brenner et al. does not expressly disclose the method for interactive wagering, utilizing a cellular telephone that is in wireless data communications network.

LaDue teaches, for a wireless gaming and wagering method and system, that the method utilizes a wireless data communication network (including a cellular telephone) (see Figs. and cols. 1-6 for example).

Since LaDue and Brenner et al. are both from the same field of endeavor, the purpose disclosed by LaDue would have been well recognized in the pertinent field of Brenner et al..

Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to replace the conventional wireline data communications network system of Brenner et al. with the wireless cellular radio

system, as taught by LaDue, for the purpose of providing the user with a portable, wireless two way data communications gaming or wagering system.

Regarding to Claims 32-71, the modified interactive wagering system of Brenner et al. can implement the method claims of 1-31, and further includes the system and a machine readable medium, comprising:

a transaction processing and subscription management system for handling wagers on races;

a cellular telephone that is in wireless communication with the processing and management system; and

the cellular telephone having a display, wherein the cellular telephone is configured to allow a user to interact with various options on the display to initiate access to the service; to initiate creation of a wager; to display race results; to view handicapping information on the terminal; to select the racetrack for the given race; to select the given race from a plurality of races at a plurality of racetracks; to select a desired wager type for the wager; to select a horse on which to wager for the given race; to select a wager amount for the wager; to create a new wager after the wager has been created; to place the wager by sending the wager to a transaction processing and subscription management system; to delete a wager after the wager has been created; to enter a personal ID number; and to execute other functions as recited in the method claims earlier.

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Conclusion

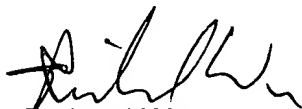
4) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Woo whose telephone number is 703-308-7830. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-308-3691 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.



Richard Woo
Patent Examiner
GAU 3629
June 13, 2003



JOHN G. WEISS
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